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SUBJECT: CUBAN-MEXICAN MOU ON MIGRATION: GOOD NEWS, BAD NEWS

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Classified By: Political Minister Counselor Charles V. Barclay. Reason : 1.4 (b),(d).

¶11. (C) Cuban Foreign Minister Felipe Perez Roque will sign an MOU with Mexico today that could have Cuba taking back significantly greater numbers of the illegal Cubans detained en route to the U.S. each year by Mexican immigration authorities. He will also extend an invitation to President Calderon to visit Cuba. As part of the deal on migration issues, Mexico has agreed to join Cuba in making a joint declaration at today's signing ceremony placing public blame on U.S. unilateral policies for stimulating the flow of Cubans through Mexico and complicating efforts to confront this problem. Mexican officials were uncomfortable with making this declaration on the eve of Secretary Rice's visit on October 22-23 and took pains to explain it intended no offense to the U.S. Deputy PolCouns stressed the importance the U.S. attached to Mexico's addressing human rights concerns in its relations with Cuba including in the context of repatriating greater numbers of the illegal Cubans it detains in Mexico. End Summary.

¶12. (U) The Mexican Foreign Ministry's (SRE) Deputy Director General for Latin America, Victor Arriaga, called Deputy PolCouns October 19 requesting a meeting with him, Edgar Aroldo Rodriguez Rudich, the Coordinator of Advisors to Geronimo Gutierrez Fernandez (SRE's U/S for Latin America and the Caribbean), and Enrique Rojo Stein, the Chief of Advisors to Carlos Rico (SRE's U/S for North America), to discuss the MOU on migration matters that Mexico planned to sign on October 20 with Cuba's visiting Foreign Minister Felipe Perez Roque.

Leaving the Past Behind

¶13. (U) To provide some context for Mexico's decision to normalize relations with Cuba and, in particular, pursue an MOU with Cuba on migration issues, Rodriguez recalled Mexico's strained relations with Cuba at the end of the Fox administration that had produced a significant drop off in commercial trade. As a separate consequence, Cuba had provided little to no cooperation on the repatriation of illegal Cubans detained in Mexico. In 2007, Cuba had taken back only 5 percent of the 3000 illegal Cubans detained by Mexican authorities; thus far in 2008 it had only taken back about 20 of the 1,800 Cubans detained in Mexico. Rodriguez stressed GOM concern about Mexico becoming the preferred route for the movement of Cubans into the U.S. and the rising involvement of organized criminal groups in this activity.

¶4. (U) Seeking to better commercial ties and cooperation on a host of issues including migration, President Calderon had decided to pursue improved relations with Cuba leading directly to FM Espinosa's visit to Cuba in March. As part of this process of normalization, Cuba and Mexico initiated talks in the context of seven of the country's ten most important mechanisms for cooperation including migration. To the GOM's view, on the economic side, Mexico had already seen the fruits of this new approach with an increase in commercial trade by upwards of 70 percent during the period April to October 2008 compared to the same period last year.

Tackling the Repatriation Issue

¶5. (U) Mexico and Cuba commenced negotiations on migration issues in April focusing on three components: improving cooperation in combating criminal organizations trafficking in people, repatriation of illegal Cubans detained in Mexico, and facilitating travel for tourists and businessmen. SRE's U/S Gutierrez led the Mexican side in the course of four negotiating sessions, which included GOM representatives from the Interior Ministry's (SEGOB) National Institute for Migration (INM) and National Intelligence Center (CISEN), the Attorney General's Office (PGR), the Public Security Secretariat (SSP), the Transportation and Communication Secretariat (SCT), the Army (SEDENA) and the Navy (SEMAR).

¶6. (U) According to Rodriguez, resolving differences over repatriation proved the most contentious issue in the negotiations given the lack of an existing legal framework. Further, the majority of the illegal Cubans detained in Mexico enter through Central America and historically Cuba has refused to take back Cubans entering Mexico via a "third"

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country) any country other than Cuba directly. In that respect, Rodriguez conveyed GOM satisfaction with having secured from the GOC an agreement on terms for processing the repatriation of illegal Cubans detained in Mexico that GOM authorities believe could have Cuba taking back some 70 percent of the Cubans detained by Mexican officials.

What Cuba Gave Up

¶7. (SBU) Under the agreement, Mexico would have up to 15 working days to notify the GOC of its detention of illegal Cubans and its request that Cuba agree to their repatriation. Cuba, in turn would have up to 15 working days to respond. According to Rodriguez, the GOC has agreed to take back illegal Cubans in the following categories:

- those that enter Mexico illegally directly from Cuba (by sea);
- those that enter Mexico illegally via Central America and have been detained within 11 months (the normal time Cuba grants its citizens for legal travel overseas) of their departure from Cuba;
- and those that overstay their visas for travel to Mexico.

Cuba apparently reserves the right to refuse Cubans it deems pose a "danger" to Cuba though Rodriguez remarked that the GOM would challenge objections to repatriation on that grounds. Provided GOC approval of repatriation, the GOM is obligated to give the GOC at least 72 hours advance notice of its plans to physically repatriate the individuals in question.

¶8. (SBU) Rodriguez was pleased the two sides were agreeable to sending back individuals on commercial airlines at GOM expense on a space available basis instead of flights chartered by the Mexican Federal Police which had proven expensive in the past. He noted the agreement allows for Mexico's Navy and Cuba's Coast Guard to work out the details of their cooperation on dealing with the detention of Cubans

at sea. Rodriguez acknowledged that a MOU carries less legal weight than a legal agreement but suggested Mexico opted for the former over the latter to avoid the politically contentious ratification process in the Mexican Congress. He acknowledged that it remains to be seen to what extent the GOC complies with the terms of the MOU. He conceded that if the GOC does not comply with established time periods, Mexico will be forced to revert to its present practice) the release of detainees with the payment of a \$500 fine and an "oficio de salida" (an order to leave the country in 30 days which most detainees use to continue onward north to the U.S.)

What Cuba Gets

¶9. (SBU) Rodriguez explained regretfully that the GOC's "concessions" on the question of repatriations did not come without a price. Initially, the GOC had insisted on preambular text in the MOU that would have blamed the U.S. for the migration problems the two countries are seeking to address. He maintained Mexico had refused on grounds it would be inappropriate to draw attention to a third country in a bilateral MOU. As a compromise, though, Mexico had agreed to issue a joint declaration upon signing the agreement that 1) rejects U.S. unilateral policies including U.S. trade sanctions against Cuba and the Helms Burton Act and 2) blames U.S. immigration policies) wet foot/dry foot policy) for stimulating the problem the two countries face and complicating efforts to address it. Rodriguez stressed GOM efforts to separate out these two issues noting that the GOM had insisted on mention of the first only in the context of the existing UN resolution that Mexico had always supported which condemns the U.S. blockade. As the two foreign ministers would hold a press conference at the Foreign Ministry before the MOU signing and the release of the joint declaration at the Interior Ministry, he hoped FM Espinosa would be spared addressing this declaration directly with the press.

¶10. (SBU) Rodriguez took pains to convey the GOM's discomfort with making this declaration, particularly on the eve of Secretary Rice's visit October 22-23. He understood Arturo Sarukhan, Mexico's Ambassador to the U.S., was reaching out to A/S Shannon to inform Washington authorities similarly about this declaration. He stressed U/S Gutierrez

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viewed the U.S. as a "close friend" and that it was important for us to understand Mexico had little choice but to accept this declaration as a condition for getting this agreement with Cuba.

Don't Forget Human Rights

¶11. (C) Deputy PolCouns stressed the importance the U.S. attached to Mexico's raising human rights concerns in its relations with Cuba. This applied to Mexico's MOU with Cuba as well as it would be important for Mexico to take pains and ensure that none of those it repatriated faced potential political persecution. Rodriguez assured Deputy PolCouns that Mexico had addressed human rights issues with Cuba last April in the context of its bilateral consultations but conceded those discussions did not/not enter into specifics pertaining to political prisoners. Arriaga maintained that in Mexico's experience the illegal Cubans Mexico regularly detained were economic migrants. Rodriguez, however, recognized that once Cuba started taking back greater numbers of detainees, more would claim potential persecution. He conceded the MOU with Cuba did little to address this issue and that Mexico may have to look at how better to address it independently.

¶12. (C) Comment. Mexico clearly views its MOU with Cuba establishing terms upon which Cuba would agree to take back significantly more illegal Cubans detained in Mexico as a

major advance. If Cuba complies with the agreement) which remains to be seen) the GOM hopes fewer Cubans will seek to use Mexico as a bridge to the U.S. Some Mexican officials have expressed some skepticism the MOU will produce a significant increase in the repatriation of Cubans. Mexico took pains to explain it was not keen to foist blame on the U.S. for this problem, particularly in a public forum on the eve of Secretary Rice's visit. Nevertheless, it stressed its success in keeping this language out of the MOU and making the point about "unilateral" U.S. policies in the context of prior UN resolutions. As Mexico looks to discourage Cubans from using it as a bridge to enter the U.S. in the future, we will need to stress the importance we attach to its exercising due diligence not to return detainees who risk facing political persecution. Roque's visit was postponed from earlier in the month, making the current sequence of events a coincidence that highlights the difficulty Mexico has managing its schizophrenic foreign policy with the U.S. and Cuba.

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